

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

CHANCE TURNER BROWN IV,

Plaintiff,

vs.

WELLS FARGO BANK, N.A.,

Defendant.

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No. 25-cv-2323 SHL/cgc

ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*
REPORT AND RECOMMENDATION

On March 24, 2025, plaintiff Chance Turner Brown IV, filed a *pro se* complaint and a motion to proceed *in forma pauperis*. (D.E. # 2 & 4.) This case has been referred to the United States magistrate judge for management and for all pretrial matters for determination and/or report and recommendation as appropriate pursuant to Administrative Order 2013-05¹.

Federal law provides that the “clerk of each district court shall require parties instituting any such civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$400,” 28 U.S.C. § 1914(a). To ensure access to the courts, however, 28 U.S.C. § 1915(a) permits an indigent plaintiff to avoid payment of filing fees by filing an *in forma pauperis* affidavit. Under that section, the Court must conduct a satisfactory inquiry into the plaintiff’s ability to pay the filing fee and prosecute the lawsuit. A plaintiff seeking *in*

¹ The instant case has been referred to the United States Magistrate Judge by Administrative Order pursuant to the Federal Magistrates Act, 28 U.S.C. §§ 631-639. All pretrial matters within the Magistrate Judge’s jurisdiction are referred pursuant to 28 U.S.C. § 636(b)(1)(A) for determination, and all other pretrial matters are referred pursuant to 28 U.S.C. § 636(b)(1)(B)-(C) for report and recommendation.

forma pauperis standing must respond fully to the questions on the Court's *in forma pauperis* form and execute the affidavit in compliance with the certification requirements contained in 28 U.S.C. § 1746.

In this case, the Plaintiff has submitted a properly completed and executed *in forma pauperis* affidavit. The information set forth in the affidavit satisfies Plaintiff's burden of demonstrating that he is unable to pay the civil filing fee. Accordingly, the motion to proceed *in forma pauperis* is GRANTED. The Clerk shall record the defendant as Wells Fargo Bank, N.A.

Plaintiff's "Petition for Enforcement of Bill of Exchange and Ex Parte Temporary Restraining Order" centers around his attempt to present a "bill of exchange" in the amount of \$8,250,000.00 to Wells Fargo Bank for negotiation. In response, Wells Fargo declined to negotiate the item presented for deposit and closed Plaintiff's checking account. Plaintiff alleges claims for breach of contract, negligence, tortious interference, wrongful account closure, improper characterization of financial instrument and discrimination in violation of federal law. On March 28, 2025, Plaintiff filed an amended petition for enforcement of negotiable instrument (D.E. # 10) which appears to rely on sections of the Uniform Commercial Code and 15 U.S.C. § 1691 for relief.

The Court is required to screen *in forma pauperis* complaints and to dismiss any complaint, or any portion thereof, if the action:

- (i) is frivolous or malicious;
- (ii) fails to state a claim on which relief may be granted; or
- (iii) seeks monetary relief against a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2).

In assessing whether the complaint in this case states a claim on which relief may be granted, the Court applies the standards under Federal Rule of Civil Procedure 12(b)(6), as stated in Ashcroft v. Iqbal, 556 U.S. 662, 677-79 (2009), and in Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007). Hill v. Lappin, 630 F.3d 468, 470-71 (6th Cir. 2010). “Accepting all well-pleaded allegations in the complaint as true, the Court ‘consider[s] the factual allegations in [the] complaint to determine if they plausibly suggest an entitlement to relief.’” Williams v. Curtin, 631 F.3d 380, 383 (6th Cir. 2011) (quoting Iqbal, 556 U.S. at 681) (alteration in original). “[P]leadings that . . . are no more than conclusions are not entitled to the assumption of truth. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations.” Iqbal, 556 U.S. at 679; *see also* Twombly, 550 U.S. at 555 n.3 (“Rule 8(a)(2) still requires a ‘showing,’ rather than a blanket assertion, of entitlement to relief. Without some factual allegation in the complaint, it is hard to see how a claimant could satisfy the requirement of providing not only ‘fair notice’ of the nature of the claim, but also ‘grounds’ on which the claim rests.”).

“A complaint can be frivolous either factually or legally. Any complaint that is legally frivolous would *ipso facto* fail to state a claim upon which relief can be granted.” Hill, 630 F.3d at 470 (citing Neitzke v. Williams, 490 U.S. 319, 325, 328-29 (1989)).

Whether a complaint is factually frivolous under §§ 1915(b)(1) and 1915(e)(2)(B)(i) is a separate issue from whether it fails to state a claim for relief. Statutes allowing a complaint to be dismissed as frivolous give “judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” Neitzke, 490 U.S. at 327, 109 S. Ct. 1827 (interpreting 28 U.S.C. § 1915). Unlike a dismissal for

failure to state a claim, where a judge must accept all factual allegations as true, Iqbal, 129 S. Ct. at 1949-50, a judge does not have to accept “fantastic or delusional” factual allegations as true in prisoner complaints that are reviewed for frivolousness. Neitzke, 490 U.S. at 327-28, 109 S. Ct. 1827.

Id. at 471.

“*Pro se* complaints are to be held to less stringent standards than formal pleadings drafted by lawyers, and should therefore be liberally construed.” Williams, 631 F.3d at 383 (internal quotation marks omitted). *Pro se* litigants, however, are not exempt from the requirements of the Federal Rules of Civil Procedure. Wells v. Brown, 891 F.2d 591, 594 (6th Cir. 1989); *see also* Brown v. Matauszak, 415 F. App’x 608, 613 (6th Cir. 2011) (“[A] court cannot create a claim which [a plaintiff] has not spelled out in his pleading”) (internal quotation marks omitted); Payne v. Secretary of Treas., 73 F. App’x 836, 837 (6th Cir. 2003) (affirming *sua sponte* dismissal of complaint pursuant to Fed. R. Civ. P. 8(a)(2) and stating, “[n]either this court nor the district court is required to create Payne’s claim for her”); *cf.* Pliler v. Ford, 542 U.S. 225, 231 (2004) (“District judges have no obligation to act as counsel or paralegal to *pro se* litigants.”); Young Bok Song v. Gipson, 423 F. App’x 506, 510 (6th Cir. 2011) (“[W]e decline to affirmatively require courts to ferret out the strongest cause of action on behalf of *pro se* litigants. Not only would that duty be overly burdensome, it would transform the courts from neutral arbiters of disputes into advocates for a particular party. While courts are properly charged with protecting the rights of all who come before it, that responsibility does not encompass advising litigants as to what legal theories they should pursue.”), *cert. denied*, 565 U.S. 966 (2011).

It is recommended that there is no subject matter jurisdiction for Plaintiff’s claims of breach of contract, negligence and tortious interference. Jurisdiction for these torts claims would depend on diversity jurisdiction under 28 U.S.C. § 1332. However, the amount in controversy

must exceed \$75,000. For the amount claimed by Plaintiff in the complaint to control for jurisdiction purposes the Sixth Circuit requires that the claim be made in good faith. Kovacs v. Chesley, 406 F.3d 393, 395 (6th Cir. 2005)

It is further recommended that Plaintiff fails to state a claim under the 12 U.S.C. § 1818 and 15 U.S.C. § 1691. Title 12 Section 1818 of the United States Code concerns the termination of status as an insured depository institution. Nothing in this statute provides a private right of action. Further, while Plaintiff alleges discrimination in violation of 15 U.S.C. § 1691 he does not allege membership in a protected class and does not allege facts supporting his conclusory statements that he was subjected to discrimination. Regarding the claims under the UCC, “the UCC itself, is not the law of any state, nor is it federal law.” Yoo v. East Ohio Gas Co., 1:25-cv-548, 2025 WL 885683, *2 (N.D. Ohio March 21, 2025) (case dismissed for lack of subject-matter jurisdiction where plaintiff sought to pay outstanding gas bill with “Bill of Exchange” and claimed monetary damages \$10,132,646.20))

Plaintiff, like many *pro se* litigants pursuing claims based on attempts to negotiate a “Bill of Exchange”, is proffering an “underlying legal theory [that] is utterly frivolous, patently ludicrous, and a waste of this Court’s time and resources.” Kennebrew v. PNC Bank, 1:25-cv-13, 2025 WL 801169, *4 (E.D. Tenn. March 13, 2025) (remanding case to state court where plaintiff sought to discharge \$67,034.86 car loan with a “Bill of Exchange”) Therefore, it is recommended that Plaintiff’s complaint be dismissed without prejudice as to his state law claims for lack of subject matter jurisdiction and with prejudice as to his federal question claims for failure to state a claim.

The Court must also consider whether Brown should be allowed to appeal this decision *in forma pauperis*, should he seek to do so. The United States Court of Appeals for the Sixth Circuit requires that all district courts in the circuit determine, in all cases where the appellant seeks to proceed *in forma pauperis*, whether the appeal would be frivolous. Twenty-eight U.S.C. § 1915(a)(3) provides that “[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.”

The good faith standard is an objective one. Coppedge v. United States, 369 U.S. 438, 445 (1962). The test under 28 U.S.C. § 1915(a) for whether an appeal is taken in good faith is whether the litigant seeks appellate review of any issue that is not frivolous. Id. It would be inconsistent for a district court to determine that a complaint should be dismissed prior to service on the defendant, but has sufficient merit to support an appeal *in forma pauperis*. See Williams v. Kullman, 722 F.2d 1048, 1050 n.1 (2d Cir. 1983). The same considerations that lead the Court to recommend dismissal of this case for failure to state a claim also compel the conclusion that an appeal would not be taken in good faith. It is therefore RECOMMENDED that the Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal in this matter by Plaintiff would not be taken in good faith and Plaintiff may not proceed on appeal *in forma pauperis*.

Signed this 9th day of May 2025.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE SAID OBJECTIONS OR EXCEPTIONS WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER AND/OR FORFEITURE OF THE OPPORTUNITY TO RAISE OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.